

9.7 WESTERN FLHD PROCEDURE

Section 9.7 - Subsection A. ERFO Project Development Procedures. (New Subsection)

1. Purpose. These procedures provide guidelines and information regarding project development procedures to be used by the Division Office when developing ERFO Plans, Specifications and Estimates. These guidelines are intended to allow for the most timely and efficient delivery of emergency relief contract documents. These procedures are based on the “Disaster Assistance Manual for Emergency Relief for Federally Owned Roads” September 1998, referred to in this document as the ERFO Manual.

2. Definition of Key Documents. The following are key documents in the ERFO process. See Figure “A” or Appendix C in the ERFO Manual for examples.

a. FHWA Positive Finding Letter. Authored by WFLHD’s ERFO Coordinator in response to a notice of intent letter to seek emergency relief funding by a Federal Agency with flood damaged roads. This letter will evaluate whether wide spread damage has occurred as a result of a natural disaster and whether ERFO assistance is warranted.

b. Damage Survey Report (DSR). Damage Survey Reports (DSR’s) will normally be completed within 3 months after an Applicant is notified that the Disaster is approved for funding (Positive Finding Letter). The ERFO Manual states that DSR’s normally are to be completed jointly by the Applicant and a Western Federal Lands representative.

The ERFO Coordinator may also use the Alternative Procedure for Detailed Site Inspections discussed in Chapter 2 of the ERFO Manual. The Alternative Procedure allows the Applicant to prepare the DSR’s. FHWA personnel then review selected sites as a check for eligibility, description of damage, scope of repairs, and repair estimates.

WFLHD will utilize the Route DSR procedures discussed in Chapter 2 of the ERFO Manual where the site damage is similar. Route DSR’s are one DSR for a road or section of road. Individual sites along the road must have a description of damage, scope of repair, repair estimate, and pictures; but only one DSR form is prepared.

The costs on the approved DSR are to be construed as the program limit for the cost of the proposed solution. If the scope and cost of the proposed solution changes by more than 20%, the DSR will need to be amended and the approval and additional funding obtained. The steps to update the DSR need to be initiated at the time it is evident that the DSR is inaccurate. Any revisions or updates to the DSR’s on WFLHD ERFO projects will be the responsibility of the DOE assigned the project.

Some of the things not covered in the DSR, but needed to be addressed early in project development are fore slope ratios, surfacing depths, ditch depths, etc.

c. Applicant Program of Projects Letter (POP). This letter is prepared and submitted by the Federal Agency requesting ERFO funds. It includes a detailed description and estimated costs of the necessary emergency operations performed and the permanent restoration proposed at each site. Sites proposed for WFLHD administration are to be identified in this letter.

d. Program of Projects Approval Letter (PAL). This letter is written by WFLHD's ERFO Coordinator and grants program approval of all eligible ERFO sites identified in the agencies Program of Projects letter. This letter begins the funding process that will ultimately transfer the money for repairs from FHWA to the requesting federal agency. The letter is approved by the Division Engineer.

e. Joint Field Letter (JFL). This letter is written by the Land Management Agency requesting WFLHD's engineering assistance in preparing contract documents and performing contract administration services for flood damaged road repair contracts. The JFL will be coordinated by the DOE. The JFL, similar to a project agreement for Forest Highway and Park Roads, identifies roles and responsibilities, funding, schedules, and lists of sites to be repaired. The JFL also identifies the need to transfer the approved money for ERFO repairs from the requesting land management agency back to WFLHD through a revised POP and PAL. In addition, any non ERFO work requested to be done by WFLHD in conjunction with the ERFO repairs should be identified in the JFL. See [Figure A](#) for an example.

3. Environmental compliance. WFLHD will always fully comply with all applicable environmental laws and requirements, such as NEPA, ESA, CWA, etc. on ERFO contracts. WFLHD will coordinate with all resource and regulatory agencies prior to taking action and starting repairs. If time is not available to complete all documentation, WFLHD will strive to reach agreement on actions and further coordination requirements. Division Engineer approval is required for any actions taken without full compliance. The following are key environmental laws and regulations and how they apply to ERFO projects.

a. National Environmental Policy Act (NEPA). When WFLHD is the lead Federal Agency under NEPA for administering ERFO projects, FHWA's implementing regulation for NEPA apply.

1) Emergency Categorical Exclusion. 23 CFR 771.117(c) states that emergency repairs implemented under 23 CFR 125 meet the criteria for CE's and normally do not require further NEPA approvals. WFLHD should proceed under the determination that any permanent repair project advanced to construction during the first construction season following the damage is typically "emergency repairs". See 771.117(c)(d) for additional information regarding use of this categorical exclusion. On a project basis, this determination is documented in a memo to the project file prior to advertisement of the contract. See [Figure B](#) for an example memo.

2) Documented Categorical Exclusion. WFLHD typically prepares a documented categorical exclusion (CE) for projects that were not advanced to construction during the first construction season following the damage. See [Figure C](#) for an example documented Categorical Exclusion.

To support both the memo and the documented CE, WFLHD completes an Environmental Checklist. The purpose of the Environmental Checklist is to document the review and compliance activities required by other environmental laws. See [Figure D](#) for an example of the Environmental Checklist.

3) Environmental Assessment/Environmental Impact Statement. If there are unusual circumstances (significant environmental impacts, substantial controversy on environmental grounds, changes in access, etc.) a CE is probably not appropriate and the land management agency (Agency) or WFLHD should prepare a NEPA document (EA or EIS). Depending on who is the lead agency, the other agency should provide input in the development of the document and be identified in the document as a Cooperating Agency. If WFLHD is the cooperating agency, WFLHD will adopt the document prior to advertising the construction contract.

b. Endangered Species Act (ESA). The ESA, 50 CFR Part 402, includes provisions for emergency consultation. However, it is rare that an ERFO project meets the criteria for emergency consultation. Even so, consultation required by the ESA can be streamlined by the Lead Federal Agency for ERFO projects as follows:

1) Programmatic Consultations. The Land Management Agency should check to see if repairs to flood damaged roads is an action that is approved under an existing programmatic consultations with NMFS and/or FWS. As an example, the Rogue River National Forest has a programmatic consultation that includes repairs to flood damaged roads and is valid for nine years, from 1997 through 2005. See [Figure E](#) for a copy of this agreement.

2) Batching. If repairs to flood damaged roads are not already covered under programmatic consultations, the Land Management Agency should batch all or as many as possible of the damaged road sites on the forest into a single consultation effort.

Under both programmatic and batched consultation, general guidelines and restrictions are established for all work. Surveys for species are not typically performed, presence is assumed, and restrictions are applied accordingly.

Consultations can also be conducted by either WFLHD or the Land Management Agency on a project specific basis. All consultations of this type should be coordinated through the Land Management Agency's Level 1 Team.

c. Historic Preservation Act. Most Agencies have already established agreements with the State Historic Preservation Officer (SHPO) that streamline Section 106 requirements. These agreements allow their cultural specialist to make a "no effect" determination without any coordination or concurrence from the SHPO. WFLHD should "piggy-back" on these agreements where they are available.

It is worth noting that FEMA has a programmatic agreement with SHPO and the Advisory Council for Historic Preservation (ACHP) that waives the Section 106 requirements for repairs to flood damaged roads. Presently, FHWA does not have this type of agreement.

d. Clean Water Act. WFLHD will normally obtain all necessary permits and clearances to comply with the Clean Water Act on WFLHD ERFO projects.

1) Emergency Exemption. The COE regulations for implementing the 404 Permit program includes an exemption for emergency reconstruction of recently damaged transportation facilities provided that reconstruction occurs within a reasonable period of time following the damage. WFLHD should apply this exemption to projects advanced to construction during the first available construction season. See [Figure F](#) for letters confirming use of this exemption and notification by WFLHD of our intention to apply the exemption. (Note: WFLHD may not need concurrence every time the emergency exemption is applied.)

2) Silviculture Exemption. The COE regulations also include an exemption for all work performed on roads used primarily for silviculture purpose. This typically applies for roads used for development and care of forests such as timber harvests. This exemption typically applies to lower standard FS and BLM roads. This exemption does not apply to NPS roads or Forest Highways which do not meet the definition above. WFLHD should apply this exemption to ERFO projects when applicable. See [Figure G](#) for letters confirming use of this exemption and notification by WFLHD of our

intention to apply the exemption. (Note: WFLHD may not need to obtain written concurrence every time the silviculture exemption is applied.)

3) State Permits. In addition to the Federal 404 Permit, each state issues its own permit for water-related work.

Oregon's permit regulations include emergency and silviculture exemptions like the COE. See [Figure H](#) for an example of the Oregon Emergency Exemption. See [Figure I](#) for an example of the Oregon silviculture exemption.

Washington and Idaho permits do not include these exemptions.

Montana has issued an MOU to MDT for exemption from the Stream Protection Act during emergencies. In addition, a "hotline" phone number for Montana Department of Emergency Services (406) 841-3911 should be contacted to identify other appropriate agencies to coordinate with.

The Alaska Department of Governmental Coordination (ADGC) does have regulations allowing them to provide an expeditious review in the case of an emergency. The ADGC provides a consistency finding for Coastal Zone and coordinates state agencies permitting. ADGC is still involved in silvicultural activities to some extent. Alaska Department of Environmental Conservation, Division of Air and Water Quality (DEC) provides the 401 certification. They however do not have a plan which provides for ERFO type work nor will they be establishing one.

4) National Pollution Discharge Elimination System (NPDES) permits. NPDES permits are required for ERFO projects under the same criteria applicable to other WFLHD highway projects.

e. Land Management Plan Consistency Determination. It is necessary to document the Agency's determination that projects being administered by WFLHD are consistent with their Land Management Plan. This determination lends substantial environmental support to the project. Essentially, the project NEPA clearance becomes tiered to the Environmental Impact Statement that is the Land Management Plan. The consistency determination should be included in the JFL. The JFL provided in this guide (See [Figure A](#)) includes an acceptable consistency determination.

f. Material Sources and Waste Areas. ERFO projects typically have many small material sources and waste areas. These sites should be identified early and included in the environmental studies conducted to clear the project. If the sites are not included by reference in the documentation of the environmental studies, WFLHD should obtain written authorization from the Land Management Agency to use the sites. The authorization should clearly state that the sites are approved and cleared for use in the project. See [Figure J](#) for an example letter.

4. Geotechnical investigation and analysis. When damaged sites require Geotechnical assistance, the following guidance should be considered.

a. Site geotechnical reviews. The designated geotechnical engineer should attend the scoping review with WFLHD and land management agency representatives to provide comments and guidance regarding the geotechnical aspects of the ERFO site and the recommended DSR correction for design practicality and cost/benefit.

b. Subsurface investigation. In most instances, due to the nature of the project sites and the design standards and average daily traffic of the roads, the amount of subsurface investigation (drilling and other types) should be kept to a minimum. The majority of the sites may allow for design based on observations of surface geology and its extrapolated subsurface profiles.

This design approach should be considered for several reasons:

1) Timeliness. The time available to review, design, contract and begin construction is compressed on ERFO projects. WFLHD should design, award and construct ERFO projects in the shortest possible time frame.

2) Cost. The extent of the engineering done should be consistent with the standard of the road and its expected use. Every effort should be made to ensure that engineering and repair costs are kept to the minimum necessary to meet the intent of the ERFO program.

3) Scope of Work. The cost of investigating, analyzing and repairing large damaged areas (such as large landslides) could far exceed the funding approved for the ERFO repair. This cost could be well in excess of the amount warranted by the standard of road damaged. In certain cases, drive probe testing and seismic investigation should be considered to gain some subsurface information quickly and reduce costs.

4) Environmental Concerns. Environmental restrictions within the damaged area often will preclude or greatly restrict the ability to construct access roads for subsurface investigation (drilling equipment etc.)

5) Weather restrictions. Many damaged sites are typically found at the freezing level line as a result of a rain on snow event. Due to the high elevation locations of some sites and the need to advertise work as early in the construction season as possible, weather conditions often limit site accessibility for detailed subsurface exploration work.

6) Assumed risk. Often the decision to not perform a subsurface investigation results in the assumption of more risk during the development of the design repair than might be assumed in the design of a typical WFLHD highway project. The Geotechnical Engineer should evaluate the acceptability of the risk based on the standard of the road, the repair options available, time available for design, and cost of the repair options. If assumed risk is taken during design, the geotechnical engineer should fully communicate this to the design team, construction and the land management agency. ERFO repairs with assumed risk will require more coordination with the construction field staff to allow for more field engineering if changes occur during construction.

c. Geotechnical Memorandums. In lieu of formal geotechnical reports, geotechnical information should be transmitted via a memorandum format. To the extent possible, geotechnical memorandums should omit such information as discussions of regional geology, climatic data, and descriptions of drilling equipment and procedures. On some simple ERFO repair contracts, the need for a “stand alone” geotechnical memorandum may not be necessary and updating the scoping review report at a later stage of the project development process to include the geotechnical information may suffice. The WFLHD Geotechnical Section has multiple examples of this format.

5. Plans, Specifications and Estimates (PS&E) preparation. The following procedures and guidelines should be used to streamline the preparation of PS&E's:

a. Design Book. A formal design book may not be necessary for all ERFO projects. Typical files should include NEPA Clearance, Permits, Design Data and Correspondence, DSR's and Contract Documents.

b. DSR Tracking Guide. Approved DSR costs (Const., PE, and CE) and the final engineers estimate and Preliminary Engineering costs will be tracked by this guide to allow for timely programming updates as necessary. The guide will include a checklist for all related Project Development documents included with the Project Engineer Hold File. See [Figure K](#) for an example DSR tracking guide.

c. Project Scheduling. Schedule for delivery of ERFO contracts should be negotiated with the land management agency. Every attempt should be made to combine multiple sites (within reasonable proximity) into one contract to reduce workload for design, construction, and acquisitions staff.

Utilize PRMS on all ERFO projects. Streamlined logic, reducing significantly the number of PRMS activities, should be utilized for delivery of the projects and administrative workload. Resources and times necessary for key project milestones should be the outcome of PRMS status reports.

d. Project Budgeting. Preliminary Engineering budgets on ERFO contracts should be prepared using WFLHD's PE Budget Program. It is recommended that the following minimum work codes be utilized; Survey, Geotechnical, and Design (includes environment, bridge, right-of-way, and others).

e. Agency Design Standards. Often the design standards requested, which may be significantly lower than WFLHD's, are appropriate for the standard of the damaged road and should be used unless there are significant safety or operational concerns. Appropriate design standards for the project should be discussed with the land management agency and agreed to during the project scoping review.

f. Survey requirements. Survey data should only be obtained for damaged sites which will require specialized design, alternative analysis (relocation of the roadway, wall design, grade change, etc.) or other technical service requests. Instead of formal survey data, rough field measurements and sketches obtained during the scoping review may suffice for designing the work.

g. Hydraulic analysis requirements. Due to the nature of ERFO damage, most sites are a result of concentrated flow or debris flows which cause roadway damage. Hydraulic analysis and design should be utilized similarly to "normal" WFLHD project development processes.

h. Cross functional Team concepts for delivery of ERFO projects. For successful delivery of fast tracked ERFO projects, WFLHD will implement a cross functional team consisting of various engineering disciplines. On large disaster responses, co-location of all the team members should be considered to greatly facilitate the exchange of information on an immediate, "as-needed" basis and allow technical disciplines to assist multiple highway designers concurrently (as opposed to communicating via telephone, E-mail, or inter-office visits). No supervisory changes would be necessary as a result of co-locating team members.

6. Quality Control/Quality Assurance Processes. WFLHD has an established QA/QC process for review of PS&E's. Often on fast tracked ERFO projects, this established process is not easily implemented. For ERFO projects, the following process should be considered.

a. Scoping Review. The ERFO design process should begin with a preliminary scoping review, during which each critical ERFO site should be visited by a cross function team that includes a DOE/Lead Design Engineer, geotechnical engineer, environmental specialist, other key WFLHD technical specialists as necessary, and key personnel from the client agency. The scoping review should provide an opportunity to review the repair aspects of the ERFO site and the recommended DSR correction for design practicality and cost/benefit. If it is concluded during this review that the approved DSR will not cover the scope of work necessary, immediate action should be initiated to amend the DSR and revise the approved Program of Projects. In addition, responsibilities for the environmental clearance and resource surveys, need for alternative correction proposals, need for subsurface drilling investigations, survey, or hydraulic analysis should be determined and included in a scoping review report. The time line for design and construction of the correction should be discussed and agreed to during this review.

b. Preliminary Design Review (30% complete). DOE/Design Team completes internal review of preliminary design plans and line and grade studies for Scope of Work consistency with the approved DSR and the scoping review report. Any additional alternatives needing to be analyzed for cost or environmental concerns should be identified during this review. On more complicated projects, the DOE should consider forwarding preliminary designs to cooperating agencies for review. Most projects should not require a field review at this stage unless major changes from the scoping review have materialized.

c. Plan in Hand Review (80-90% complete). DOE/Design Team completes internal reviews of the plans, specifications and estimate for consistency with scoping review commitments and WFLHD design principles. Make revisions to PS&E comments from DOE/Design Team review prior to forwarding the PS&E to the Client Agency and internal customers (geotechnical, bridge, hydraulics, etc.). A plan in hand field review is not necessary on all projects due to time and weather constraints. Discuss the need for a field review with cooperating agencies.

d. Final PS&E review (99% complete). DOE/Design Team completes internal review of the final PS&E and supporting documentation for overall quality. After completing the final review changes, lead designer forwards PS&E to Acquisitions section for final sign-off review and contract document preparation.

7. Contracting Methods and Alternatives for ERFO Contracts. The following contracting methods and alternatives should be considered for preparation of ERFO contract documents.

a. Credit Card Purchases. A \$20,000/year limit is available for non-warranted individuals for emergency repair purchases such as helicopters, planes, materials etc. The Contracting Officer has a higher limit if needed.

b. Purchase Orders. This contracting method should be considered for ERFO contracts with a clearly definable scope of work and totaling less than \$100,000 dollars for repairs. Approval by a WFLHD Contracting Officer is necessary for this contracting method. Using Simplified Acquisition Procedures and abbreviated plans and specifications, a contractor is selected with a minimum of quotations from different construction firms.

Three quotations are desirable, but not mandatory. Work can start immediately after accepting a price quote. This procurement process is handled by the Small Purchasing Section of Acquisitions. See [Figure L](#) for example Purchase Order package.

c. Letter Contract. For projects requiring immediate action by WFLHD and where the SOW is undefinable initially, this contracting method should be considered. The contacting procedure permits WFLHD to enter

into a contract with a construction contractor prior to fully definitizing the terms and cost of the work. Contract plans and specifications are to be provided to the contractor within 30 days. Presently, approval to issue a letter contract is by the Federal Lands Highway Program Manager. See [Figure M](#) for an example Letter Contract “letter”.

d. Time and Materials Contracts. This type of contract should be used for projects where the SOW is easily definable and little change is anticipated and also when immediate action by WFLHD is necessary. Example contracts may include equipment rental items and materials purchase (i.e., riprap, temporary bridges, etc.). ID ER 97-24(1), Banks Lowman Highway is an example of this type of contract.

e. Contracts with shortened Ad and Award schedules. Modification to normal time frames for advertising and awarding contracts should be considered when environmental concerns, weather restrictions, or completion of construction in the same year as when damage occurred may be jeopardized. This option should be discussed with the Acquisitions staff and the Division Engineer. Sealed bidding for repairs for this situation should consider 15 days advertisement and 15 day award time frames. Approval for modifying standard advertisement and award time frames are by the Federal Lands Highway Program Manager.

f. Commerce Business Daily (CBD) Waiver. On ERFO contracts requiring immediate action, the CBD period can be waived. Waivers can be granted by the Federal Lands Highway Program Manager. This waiver should be processed through the WFLHD’s Contracting Officer. See [Figure N](#) for example waiver justification.

g. Design/Build contract provisions. This contracting method should be considered for large disaster repair contracts. On typical projects, portions of the repair contract may be suitable for design/build contract provisions. Examples may include retaining wall designs and small bridge designs. This practice should be considered when resources or time frames are not available to complete detailed designs within agreed to agency time frame requirements. WA FS ERFO 96-20(2), Cascade River Road, is an example of a design/build approach to a small bridge design.

h. Sealed Bid with Standard Ad and Award Schedule. Preparation of ERFO contract documents utilizing WFLHD’s standard procedure.

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United States
Department of
Agriculture

Forest
Service

Siskiyou
National
Forest

200 NE Greenfield Road
P.O. Box 440
Grants Pass, OR 97526-02

Reply To: 7700

Date: September 10, 1997

Federal Highway Administration
ATTN: Ms. Carol H. Jacoby, Division Engineer
Western Federal Lands Highway Division
610 E. Fifth Street
Vancouver, WA 98661

RE: Joint Field Letter

Dear Ms. Jacoby,

It is requested that you proceed with the following emergency repair work in accordance with this Joint Field Letter. Details regarding this work are:

1.	<u>Official Project Name</u>	<u>Type of Work</u>	<u>Type of Funds</u>
A.	Road 4703 MP 1.11 Site #4 - 502 Storm OR96-1FS	Contract Prep and Administration	ERFO
B.	Road 4611019 MP 2.19 Site #4-603 Storm OR97-2FS	Survey, Design Contract Prep, and Administration	ERFO
C.	Road 4703 MP 1.20 ERFO Site #4-605 Storm OR97-2FS	Survey, Design, Contract Prep, and Administration	ERFO
D.	Road 4611 MP 6.15 Site #4-606 Storm OR97-2FS	Survey, Design, Contract Prep, and Administration	ERFO
E.	Road 33 MP 31.6 Site #702 Storm OR97-1FS	Design, Contract Prep, and Administration	ERFO
F.	Road 33 MP 34.4 Site #703 Storm OR97-1FS	Design, Contract Prep, and Administration	ERFO
G.	Road 33 MP 34.75 Site #704 Storm OR97-1FS	Design, Contract Prep, and Administration	ERFO
H.	Road 33 MP 35.2 Site #705 Storm OR97-1FS	Design, Contract Prep, and Administration	ERFO

Figure A
Example of "Joint Field Letter"

<u>Official Project Name</u>		<u>Type of Work</u>	<u>Type of Funds</u>
I.	Road 33 MP 40.0 Site #706 Storm OR97-1FS	Design, Contract Prep, and Administration	ERFO
J.	Road 23 MP 34.6 Site #707 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
K.	Road 3533 MP 4.69 Site #710 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
L.	Road 3404 MP 1.4 Site #712 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
M.	Road 3402 MP 1.7 Site #713 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
N.	Road 3680312 MP 0.84 Site #717 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
O.	Road 33 MP 39.8 Site #725 Storm OR97-1FS	Design, Contract Prep, and Administration	ERFO
P.	Road 33 MP 12.85 Site #726 Storm OR97-1FS	Design, Contract Prep, and Administration	ERFO
Q.	Road 1407150 MP 3.77 Site #728 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
R.	Road 3402 MP 3.30 Site #738 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
S.	Road 3533 MP 5.55 Site #740 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
T.	Road 23 MP 34.7 Site #745 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
U.	Road 23 MP 34.7 Site #746 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
V.	Road 23 MP 33.7 Site #747 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO

Figure A
Example of "Joint Field Letter"

<u>Official Project Name</u>		<u>Type of Work</u>	<u>Type of Funds</u>
W.	Road 33 MP 36.6 Site #750 Storm OR97-1FS	Design, Contract Prep, and Administration	FS
X.	Road 3680312 MP 0.50 Site #757 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
Y.	Road 33 MP 35.4 Site #758 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
Z.	Road 23 MP 33.90 Site #759 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AA.	Road 33 MP 46.2 Site #801 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AB.	Road 33 MP 46.7 Site #802 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AC.	Road 33 MP 47.14 Site #803 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AD.	Road 33 MP 47.31 Site #804 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AE.	Road 33 MP 47.07 Site #813 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AF.	Road 33 MP 47.25 Site #814 Storm OR97-1FS	Design, Contract Prep, and Administration	ERFO
AG.	Road 33 MP 46.75 Site #815 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AH.	Road 5325 MP 3.35 Site #820 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AI.	Road 5325 MP 3.35 Site #821 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AJ.	Road 5325 MP 4.1 Site #822 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO

Figure A
Example of "Joint Field Letter"

<u>Official Project Name</u>		<u>Type of Work</u>	<u>Type of Funds</u>
AK.	Road 5325 MP 4.2 Site #823 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AL.	Road 5325 MP 5.0 Site #824 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AM.	Road 5325 MP 5.35 Site #825 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AN.	Road 5325 MP5.45 Site #826 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AO.	Road 5325 MP 5.6 Site #827 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AP.	Road 5325 MP 5.7 Site #828 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AQ.	Road 5325 MP 5.8 Site #829 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AR.	Road 5325 MP 6.0 Site #830 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AS.	Road 5325 MP 6.05 Site #831 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AT.	Road 5325 MP 6.3 Site #832 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AU.	Road 5325 MP6.7 Site #833 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AV.	Road 5325 MP 10.7 Site #834 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AW.	Road 5325 MP 4.3 Site #837 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AX.	Road 33 MP 44.5 Site #853 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO

Figure A
Example of "Joint Field Letter"

<u>Official Project Name</u>		<u>Type of Work</u>	<u>Type of Funds</u>
AY.	Road 33 MP 46.0 Site #854 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
AZ.	Road 33 MP 46.3 Site #865 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
BA.	Road 3347 MP 0.30 Site #865 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
BB.	Road 3347 MP 0.43 Site #866 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
BC.	Road 3347 MP 0.46 Site #867 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
BD.	Road 3347 MP 0.61 Site #868 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
BE.	Road 3347 MP 1.18 Site #869 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO
BF.	Road 3347020 MP0.10 Site #870 Storm OR97-1FS	Survey, Design, Contract Prep, and Administration	ERFO

2. Contracting Schedule

<u>National Forest</u>	<u>County</u>	<u>State</u>	<u>Project Ident.</u>	<u>Type of Operation</u>	<u>Contract by</u>
Siskiyou	Josephine	Oregon	A&C	Road Reconstr.	04/30/99
			B	Road Reconstr.	09/30/99
			D	Road Reconstr.	04/30/99
			E-I	Road Reconstr.	07/01/98
			J-N	Road Reconstr.	09/30/99
	Curry	Oregon	O-P	Road Reconstr.	07/01/98
			Q-V	Road Reconstr.	09/30/99
			W	Road Reconstr.	07/01/98
			X	Road Reconstr.	09/30/99
			Y	Road Reconstr.	07/01/98
	Coos	Oregon	Z	Road Reconstr.	09/30/99
			AA-AG	Road Reconstr.	07/01/98
			AH-AW	Road Reconstr.	09/30/99
			AX-AZ	Road Reconstr.	07/01/98
			BA-BF	Road Reconstr.	09/30/99

Figure A
Example of "Joint Field Letter"

3. Funding

Funding will be in accordance with the ERFO Program Approval letters No. 2, OR 96-1 FS, dated 4/16/96 and as supplemented 6/17/96; No. 3, OR 97-1 FS, dated 8/27/97; and No. 3, OR 97-2 FS, dated 8/28/97.

Funds will be held by the Forest Service on the sites of Section 1 in the amount of \$75,848 for emergency work, environmental reports, surveys, and drilling.

4. Forest Service Representative

Robert O'Leary
Assistant Forest Engineer
USDA Forest Service
Siskiyou National Forest

Western Federal Lands Highway Division

Tom Hildreth
Operations Engineer
FHWA
Western Federal Lands Highway Division

Technical Representative:

Ed Hammontree
Project Manager
FHWA
Western Federal Lands Highway Division

5. Design Data

FHWA to design for repair of flood damage to pre-flood conditions, including realignment if necessary or as stated in the approved DSR, to withstand an estimated 100 year flood. The Forest Service has completed surveys on sites E-I, O, P, W, X, and AD; drilling on sites E and P; and design on Site A (#4-502), however the design on site 4-502 (A) may need to be changed to better coordinate with adjacent site 4-605 (C). A forest Service contact person can be made available that is familiar with each site and road conditions.

Decisions by the Forest Service on Sites B, D, and N as to the appropriate fix for administrative need and consistency with the Siskiyou National Forest Plan should be made before design proceeds. The Forest Service will advise FHWA when this is known, and is expected by December 1, 1997.

The Forest Service is requesting FHWA to do the design and repair of site #750 (W-an unapproved site for ERFO) using Forest Service funds. This site is between sites FHWA will accomplish and should be contracted in conjunction with the adjacent sites. The Forest Service will provide survey and environmental data for the site.

6. Environmental Concerns

All work under this agreement is consistent with the current Siskiyou National Forest Plan and shall be completed in accordance with the approved environmental documents and permits. WFLHD will obtain any permits, agreements, etc. necessary to complete the reconstruction in accordance with the document or applicable State and Federal requirements.

Figure A
Example of "Joint Field Letter"

7. Specific Responsibilities

- A. Forest Service will conduct required surveys for TE&S species and heritage resources, write Port Orford Cedar assessments, perform scoping, review preliminary design alternatives, approve the design, assist in decisions concerning any design changes, attend pre-work conferences, conduct interim construction reviews, attend the final acceptance review, and approve final acceptance. The Forest Service will obtain any necessary rights-of-way if requested, can do additional surveys if requested, and may also be able to provide geologic and geotechnical input to the designer when agreed. The Forest Service will accomplish all emergency repairs.
- B. Western Federal Lands Highway Division will survey, prepare a preliminary design for review by the Forest Service, prepare, advertise, and award a construction contract and perform the necessary contract administration except where the survey or design is shown as done by Forest Service or where additional work is requested by WFLHD for the Forest Service to accomplish.

8. Project Schedule

To reduce possible negative impacts to the watershed and to provide public access, the projects on Rd. 33 should be under contract by July 1, 1998. Projects A, C, and D should be contracted by April 30, 1999 to take advantage of summer openings in the fisheries restrictions. All other sites should be contracted by September 30, 1999.

9. Road Abandonment

Most of the project costs on Rd. 3347020 (site #870) will be used to remove the bridge superstructure following obliteration of the road beyond the bridge. The road obliteration is currently under contract.

Possible abandonment of Rd. 4611019 beyond site B and Rd. 3680312 beyond site N are two of the decisions brought out in section 5 to be made by the Forest Service. If the decision is to abandon, then only enough repair will be needed to allow temporary access beyond the sites.

For Forest Service

For Western Federal Lands Highway Division

J. MICHAEL LUNN
Forest Supervisor
Siskiyou National Forest

CAROL H. JACOBY
Division Engineer
Western Federal Lands Highway Division

Figure A
Example of "Joint Field Letter"

Siskiyou National Forest ERFO Projects

No.	Project		Account No.	Sites
	Name			
OR FS ERFO 97-18(1)	FR 33 (MP 12 - MP 40), FDR 3533, FDR 3402		09R 17 41 51 7218 101	E-M, O-P, R-W, Y-Z
OR FS ERFO 97-18(2)	FR 33 (MP 44.5 - MP 47.3), FDR 3347, FDR 3347020		09R 17 41 51 7218 102	AA-AG, AX-AZ, BA-BF
OR FS ERFO 97-18(3)	FDR 4703, FDR 4611, FDR 4611019		09R 17 41 51 7218 103	A-D
OR FS ERFO 97-18(4)	FDR 5325, Elk River Road		09R 17 41 51 7218 104	AH-AW
OR FS ERFO 97-18(5)	FDR 1407150, FDR 3680312		09R 17 41 51 7218 105	N, O, X

Figure A
Example of "Joint Field Letter"



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

WESTERN FEDERAL LANDS HIGHWAY DIVISION
610 EAST FIFTH STREET
VANCOUVER, WA 98661-3893

Subject: **INFORMATION:** WA NPS ERFO 96-42(2)
Emergency Repairs to State Route 123
Environmental Clearance Summary

Date: August 2, 1996

From: Brian G. Allen
Staff Environmental Engineer

To: Thomas J. Hildreth
Operations Engineer

The Federal Highway Administration (FHWA), in cooperation with the National Park Service (NPS), is planning to make emergency repairs to State Route (SR) 123 in Pierce County, Washington. Funding for the emergency repairs is authorized under Title 23, United States Code, Section 125. As such, the project is categorically excluded under 23 CFR 771.117(c)(9) and no further NEPA approvals are necessary.

SR 123 begins at its intersection with US 12 and proceeds north for about 16 miles to its junction with SR 410 at Cayuse Pass in Mt. Rainier National Park. The project is located about 5 miles south of Cayuse Pass. Work will be performed at one site and will consist of constructing a fill side wall to restore the road to its pre-flood alignment and width. Other work includes minor clearing, excavation, minor rock blasting, aggregate base, drainage, and revegetation.

The emergency repairs will not require water related permits. An NPDES permit will not be required as less than 2 ha (5 acres) of ground will be disturbed.

The project has been evaluated for effects to sensitive resources. A completed environmental checklist documenting the evaluation is attached to this memo. The FHWA finds that the proposed project is not likely to adversely affect threatened and endangered species. This determination is based on a biological evaluation prepared by the NPS and concurred with by the US Fish and Wildlife Service (FWS) on July 26, 1996. Timing restrictions will be implemented during construction to minimize impacts to these species.

There are no unresolved environmental issues that would preclude the project from going to construction.

Figure B

Example of "Emergency Categorical Exclusion"



**U.S. Department
of Transportation**

**Federal Highway
Administration**

WESTERN FEDERAL LANDS HIGHWAY DIVISION
610 EAST FIFTH STREET
VANCOUVER, WA 98661-3893
(360) 696-7700 FAX: (360) 696-7846

February 4, 1998

Refer to: HER-17
#19420J.BGA

CATEGORICAL EXCLUSION

For

OR FS ERFO 97-12(2), Forest Road 39 North Sites
Wallowa Mountain Loop Road, Milepost 18.6 to 23.2

The Federal Highway Administration (FHWA), in cooperation with the Wallowa-Whitman National Forest (FS), is planning to repair intermittent flood damage along a 4.6 mile segment of Forest Road (FR) 39 also known as the Wallowa Mountain Loop Road. The road is owned and maintained by the FS and the repair segment is located entirely within the Hells Canyon National Recreation Area. Repairs begin at Milepost (MP) 23.2 near the junction with Forest Development Road (FDR) 3955 and extend west, adjacent to Gumboot Creek, to MP 18.6. This proposed action is funded through the FHWA Emergency Relief for Federally Owned Roads Program.

Severe flooding in January 1997, damaged FR 39 and left the road impassable. FR 39 connects Joseph and Halfway and is viewed as economically vital to the area because it brings an estimated 50,000 to 60,000 tourists into the Hells Canyon National Recreation Area and surrounding communities each year. Severe economic impacts to the communities in Wallowa and Baker County to date have been documented in correspondence by private businesses and public organizations.

Damage to FR 39 ranges from small debris deposits to total loss of the road prism. An October 1997 Photo Report documents the damage at each site and identifies the site specific repairs. General repairs will include debris removal, clearing, grading, drainage, riprap, gabion walls, aggregate base, asphalt surfacing, and revegetation. The proposed repairs will restore pre-flood access conditions along FR 39 and, therefore, no change in road use is anticipated.

Wayside Quarry near MP 13, an unnamed quarry near MP 36.8 and Puderbaugh Pit located several miles east of Blackhorse Campground on FDR 3962-040, will be available as rock sources. Excess material will be wasted at the "Y", an open area near the junction of FR 39 and FDR 3955. Use of the rock sources and waste area was evaluated as part of the proposed action and is covered in this Categorical Exclusion.

Figure C
Example of "Documented Categorical
Exclusion"

The proposed action has been evaluated for effects to sensitive resources. A January 1998 Project Checklist summarizing the conclusions of the evaluation has been prepared. After analyzing the resource data, FHWA anticipates that the project impacts will not be substantial or unusual. Private right-of-way is not required and environmental concerns identified through interagency coordination can be addressed through appropriate contract restrictions and mitigation. Additionally, the FS has determined that restoration of pre-flood access along FR 39 is consistent with the Wallowa-Whitman National Forest Land Management Plan.

In accordance with the Endangered Species Act (ESA), informal consultation with the National Marine Fisheries Service (NMFS) was conducted to address potential effects to steelhead trout and spring/ summer chinook salmon. The biological assessment (BA) submitted to NMFS identifies specific restrictions, mitigation, and turbidity monitoring requirements to be incorporated into the contract package, and includes details of the post-construction mitigation effort to be implemented by the FS and funded, in part, by FHWA. The BA concludes that the proposed action will not hinder the attainment of relevant properly functioning indicators (water quality, habitat access, habitat elements, channel condition, flow/hydrology, and watershed conditions) and that there is a negligible probability of take of spring/summer chinook salmon, or steelhead trout, or of destruction/adverse modification of habitat. Therefore, FHWA determined that the proposed action is “not likely to adversely affect” the spring/ summer chinook salmon or steelhead trout. Informal consultation was concluded on January 16, 1998, when NMFS concurred with FHWA’s determination, and stated that “based on the best available information, NMFS has determined that the subject action would have no more than a negligible potential to adversely affect ESA listed Snake River Salmon and steelhead, or their designated critical habitat.”

In accordance with the ESA, conferencing with the U.S. Fish and Wildlife Service (FWS) was conducted to address potential effects to the bull trout which is proposed for listing. The same BA submitted to NMFS was submitted to FWS. The FHWA determined that the proposed action is “not likely to adversely affect” the bull trout. Conferencing was concluded on January 28, 1998, when FWS concurred with FHWA’s determination. The FHWA also determined, based on other biological assessments submitted to FWS, that the proposed action would have “no effect” on plants or wildlife protected under the ESA.

The proposed action is within the Imnaha River Watershed. Ongoing and projected activities on federal and non-federal land within the watershed are documented by the FS in *Chapter VIII Cumulative Effects Analysis: Imnaha River Section 7 Watershed, Assessment of Ongoing Activities, (Draft, January 1998)*. The analysis concludes that the low incident of activities on federal land and the improvement in private land management will allow for the continuance of all ongoing and proposed actions while improving the condition of the watershed. Consequently FHWA anticipates that cumulative effects will be negligible, and since the proposed action will not include any improvements that would change land use, indirect effects will also be negligible.

Figure C
Example of “Documented Categorical
Exclusion”

The FS periodically released information to local newspapers regarding the proposed action since project development activities began in February 1997. Additionally, public meetings have been held in Oxbow, Halfway, and Joseph, Oregon since February 1997. The proposed action has substantial local public support, however, the Hells Canyon Preservation Council and other environmental groups have not supported the action. They have filed suit requesting an environmental assessment or environmental impact statement be prepared, and that alternatives other than restoring access along the existing road be analyzed.

The following permits have been obtained for the proposed action:

1. COE Section 404 Permit for minor work in Gumboot Creek
2. Oregon Removal-Fill Permit for minor work in Gumboot Creek
3. Oregon National Pollution Discharge Elimination System General Permit

The FHWA finds that this action meets the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and the FHWA regulations (23 CFR 771.117(a),(d)(1)). The action will not induce significant impacts to planned growth or land use for the area; 2) will not require the relocation of any people; 3) will not have a significant impact on any natural, cultural, recreational, historic, or other resource; 4) will not involve significant air, noise, or water quality impacts; 5) will not have significant impacts on travel; and 6) will not otherwise, either individually or cumulatively, have any significant environmental impacts. The action falls within the example 23 CFR 771.117(d)(1), modernization of a road by resurfacing, restoration, rehabilitation, or reconstruction of actions which meet the criteria for a CE.

In a memorandum dated May 30, 1997, FHWA determined that the action, as proposed at that time, did not include any unusual circumstances as listed in 23 CFR 771.117(b). Since then, FHWA revised the action through consultation with NMFS to further reduce potential effects to protected fish species, and other environmental groups and some individuals have expressed opposition to the proposed action. The FHWA has reevaluated the May 30 determination taking into account the revisions to the action and additional opposition, and for reasons stated in its May 30 memorandum, finds that the proposed action does not include any unusual circumstances as listed in 23 CFR 771.117(b) that would make the CE classification improper.

The following documentation demonstrates that the specific conditions or criteria for a CE are satisfied and that significant environmental effects will not result:

1. ERFO Environmental Checklist (January 30, 1998)

Figure C
Example of "Documented Categorical
Exclusion"

2. Biological Assessment, Imnaha River Section 7 Watershed Assessment of Ongoing and Proposed Activities, Amendment to Include Proposed Project, Gumboot Road Flood Repair Project (December 11, 1997), including the following appendices:
 - A. Appendix A - Plans and Drawings
 - B. Appendix B - Photo Log of Gumboot Creek Sites
 - C. Appendix C - Post-Construction Mitigation Measures for the Reconstruction of FR 39
 - D. Appendix D - Turbidity Monitoring Plan for the Reconstruction of FR 39
 - E. Appendix E - Project and Fish Distribution Map
3. National Marine Fisheries Service Letter Re: Endangered Species Act Coordination on FR 39 (December 15, 1997)
4. National Marine Fisheries Letter of Concurrence (January 16, 1998)
5. Biological Evaluation, Threatened and Endangered Wildlife Species, Road 39 - Gumboot Section - Flood Repair (November 19, 1997)
6. Biological Evaluation for Listed Plants, 1997 Flood Damage Repair Projects (November 1, 1997).
7. U.S. Fish and Wildlife Letter of Concurrence (January 28, 1998)
8. FR 39, Scenic Byway, 1997 Flood Damage Reconstruction, Cultural Resource Inventory Report.
9. Department of the Army, Corps of Engineers, Nationwide Permit Verification, Case No. 97-535 (May 8, 1997, and December 24, 1997)
10. Oregon Division of State Lands, Gumboot Creek Removal/Fill Permit No. RF - 12689 (May 20, 1997).
11. Oregon Division of State Lands, Clarification on Permit Conditions - RF - 12689 (December 16, 1997).

Figure C
Example of “Documented Categorical
Exclusion”

12. Forest Service Letter Re: Wild and Scenic River Consistency Determination (January 6, 1998).
13. Chapter VIII - Cumulative Effects Analysis: Imnaha River Section 7 Watershed, Assessment of Ongoing and Proposed Activities. (Draft, January 1998)
14. FHWA Memorandum Re: Unusual Circumstances as Defined in 23 CFR 771.117(b). (May 30, 1997)

In accordance with the National Environmental Policy Act and its implementing regulations, a Class II Categorical Exclusion is hereby selected as the appropriate environmental classification for this project.

CLASS II CATEGORICAL EXCLUSION RECOMMENDED:

Edward S. Hammontree
ERFO Project Manager

Date

CONCURRED BY:

Thomas J. Hildreth
Operations Engineer

Date

APPROVED BY:

Carol H. Jacoby
Division Engineer
Western Federal Lands Highway Division

Date

cc: Herb Holthoff, W-WNF, Baker City, OR
Jimmy Roberts, W-WNF, Enterprise, OR
Kendal Clark, W-WNF, Enterprise, OR
Dennis Knapp, W-WNF, Enterprise, OR

Phil Ditzler, WFLHD
Dave Heckman, WFLHD
ERFO Project Files

Figure C
Example of "Documented Categorical
Exclusion"

ERFO ENVIRONMENTAL CHECKLIST

<i>Project Name:</i> FR 39 North Sites		<i>Prepared By:</i> Brian G. Allan		<i>Date:</i> 1/30/98	
<i>Route Id:</i> OR FS ERFO 97-12(2)		<i>State:</i> OR		<i>Forest/Reservation/BLM District</i> Wallowa-Whitman National Forest	
<i>Brief Project Description:</i> Remove debris, reconstruct road prism, armor fills with riprap, replace drainage structures, and surface roads.		<i>Repair</i>		<i>Reconstruct</i>	
				X	
<i>Purpose of Project (improve safety, restore access, structural stability, etc.):</i> restore pre-flood access along the FR 39 corridor. The road is currently closed due to road damage resulting from record floods in January 1997.					
<i>Contact</i>	<i>Name</i>	<i>Address</i>		<i>Phone</i>	
Forest Service	Herb Holthoff	Baker City, OR		541-523-6391	
	Dennis Knapp	Enterprise, OR		541-426-5654	
NMFS	Rick Edwards	Boise, ID		208-37-5645	
Corps of Engineers	Jim Anderson	Portland, OR		503-326-7730	
ODSL	Bob Brown	Bend, OR		541-388-6112	
FWS	Marilyn Hemker	Boise, ID		208-378-5262	
ODFW	Bill Knox	Enterprise, OR		541-426-4543	
Wallowa County	Ben Boswell	Joseph, OR		541-426-4543	
<i>Related Plans and Documents (Land Management Plans, Transportation Plans):</i> Wallowa-Whitman National Forest Plan					
SIGNIFICANT ENVIRONMENTAL EFFECTS					
<i>Resource/Effect</i>					
A. Soils and Geological Features (erosion, compaction, caves, etc.): () yes (X) no () maybe					
B. Air (non-attainment area, etc.): () yes (X) no () maybe					

Figure D Example of "Environmental Checklist"

C. Water (In stream work, regulated flood plain, discharge to surface waters, Wild & Scenic River, coastal Zone Mgmt. Act, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
Water related permits have been obtained. A wild and scenic river consistency determination has been provided by the FS for use of the "Y" as a waste area for the project as the "Y" is within 1/4 mile of the Imnaha River. The written determination is on the project files.			
D. Wetlands/Riparian Areas (Area, potential mitigation):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
All riparian areas within the construction limits have been covered with debris, denuded of vegetation or otherwise heavily damaged by the record flood event. The proposed repairs will move segments of the road out of the floodplain/riparian areas and post-construction mitigation work will accelerate recovery and development of riparian areas.			
E. Flora/Fauna (old growth, fish passage/habitat, threatened/endangered/sensitive, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
There are no T&E plants in the project area. Biological Assessments for aquatic and wildlife species have been prepared and coordinated with FWS and NMFS in accordance with the ESA. Extensive coordination with NMFS has been performed to develop project details to minimize effects to fisheries. NMFS concurred with FHWA's finding that the proposed action is "not likely to adversely affect" listed fish species. Mitigation documented in the coordination process will be incorporated into the project. FWS concurred with FHWA's finding that the proposed action is "not likely to adversely affect" the bull trout and that the proposed action would have "no effect" on listed wildlife or plant species.			
F. Land Use (change from/forest or other use, require right-of-way, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
The project repairs intermittent sites to restore pre-flood access along FR 39. There are no improvements that would change land use.			
G. Visual (scenic route, special visual feature, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
H. Cultural (archeological, historic, sacred, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
Ground surveys and literature searches were performed to identify project impacts to cultural resources. The conclusion drawn from the effort was that the proposed action "will have no effect on any listed or potentially eligible heritage resources."			
I. Hazardous Waste (abandoned gas station, mining operation, underground storage tank, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
J. Socio-Economic (displacement, employment, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
Repairs of the road are viewed as economically vital to the economy of Wallowa and Baker Counties. The repairs will restore pre-flood access.			
K. Noise (sensitive receptor nearby, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe

Figure D
Example of "Environmental Checklist"

L. Transportation (bike paths, detour/delays, accessibility, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
Emergency repairs are being initiated to restore pre-flood access.			
M. Utilities:	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
N. Recreation:	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
The transportation facility is a critical element of the recreational opportunities in the area. The project will restore pre flood access to the Hells Canyon NRA.			
O. Public Services:	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
P. Section 4(f) (public park/recreation area, wildlife/waterfowl refuge, cultural resources, etc.):	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
The project will restore pre-flood access to the Hells Canyon National Recreation Area.			
Q. Cumulative Effects:	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
Cumulative effects are expected to be negligible. About 88% of the land in the watershed is federal land. The Eagle Cap Wilderness, Hells Canyon National Recreation Area, and the Imnaha Wild and Scenic River designation severely restrict activities. Additionally, there is a low incident of ongoing and projected activities on federal land and there have been improvements in private land management.			
R. Indirect Effects:	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
Since there are no improvements within the proposed action that could potentially modify land use, indirect effects from restoring access along an existing road is expected to be negligible.			
S. Public Controversy:	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> maybe
Public meetings held in Joseph, Halfway, and Oxbow indicate a tremendous sense of urgency toward completing repairs.			
The Hells Canyon Preservation Council has filed a complaint in U.S. district Court on the grounds that an EA or EIS should have been prepared alleging that the project would have a significant adverse effect on listed fish species. NMFS and FWS has concurred with FHWA's determination that the project "may affect, but would not likely adversely affect" the listed fish species. Additionally, a substantial post-construction mitigation project has been developed and funded to mitigate project impacts and to improve fisheries habitat in the corridor.			

Figure D
Example of "Environmental Checklist"

MAJOR REGULATORY REQUIREMENTS			
<i>Federal</i>	<i>Comments</i>	<i>State</i>	<i>Comments</i>
Clean Water Act, Section 404 Permit	Permit Received	Removal Fill Permit	Permit Received ()
Section 4(f)	NA		
106 Process	"No Effect"		
Endangered Species Act, Section 7	Coordination completed with FWS and NMFS in compliance with the ESA.		
NPDES	Use Oregon's General Permit		
Wild and Scenic Rivers Act	Consistency determination has been obtained from the FS.		
<p><i>Notes (additional comments, alternatives, mitigation, etc.):</i></p> <p>Damage to FR 39 in the project area resulted from a record rein-on-snow event in late December 1996. High water volumes concentrated in steep channels with saturated surface soils resulted in debris flows that scoured the channels to bedrock and delivered large volumes of soil, rocks, and trees across FR 39 and into Gumboot Creek. FR 39 was also damaged by record flows in Gumboot Creek that eroded the road prism located in its floodplain. Landslides (large slope failures) did not occur. With one minor exception, no signs of past slope movement or slope distress were found. Additionally, overburden soils were found to be shallow and non-plastic. All site information supports the conclusion that the slopes above the road are predominately stable. Therefore, FHWA concludes that the landslide potential in the project area is negligible and that the proposed project will not increase that potential. (Refer to "Gumboot Geotechnical Report, January 1998)</p>			

Figure D
Example of "Environmental Checklist"

NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way, NC
Bin C, Bldg 1
Seattle, WA 98115-0070

April 15, 1998

J. Michael Lunn
Forest Supervisor
Siskiyou National Forest
200 NE Greenfield Road
P.O. Box 440
Grants Pass, OR 97526-0242

Van Manning
Acting District Ranger
Medford BLM District
3040 Biddle Road
Medford, OR 97504

James T. Gladen
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Bob Castenada
Forest Supervisor
Winema National Forest
2819 Dahlia Street
Klamath Falls, OR 97601

Neal Middlebrook
Acting District Manager
Coos Bay BLM District
1300 Airport Lane
North Bend, OR 97459

RE: Section 7 Informal Consultation on Forest Service and BLM Actions affecting Southern Oregon/Northern California Coho Salmon in Oregon

Dear Sirs:

This responds to your Biological Assessment (BA) requesting consultation on actions that may affect Southern Oregon/Northern California coho salmon (SONC coho), Klamath Mountain Providence steelhead trout (KMP steelhead), and Southern Oregon/Northern California Coastal chinook (SOCC chinook). The BA, initially submitted to the National Marine Fisheries Service (NMFS) on January 20, 1998, was finalized on March 13, 1998. This consultation on USDA Forest Service (USFS) and Bureau of Land Management (BLM) actions is conducted under Section 7(a)(2) of the ESA, and its implementing regulations, 50 CFR Part 402.

SONC coho were listed as threatened under the Endangered Species Act (ESA) on May 6, 1997 (62 FR 24588). Critical habitat for SONC coho, which occur between Cape Blanco, Oregon and Punta Gorda, California was proposed by the NMFS on November 25, 1997 (62 FR 62741). KMP steelhead, which occur between Cape Blanco, Oregon and the Klamath River Basin in California, were originally proposed for listing as threatened in 1695 (March 16, 1995, 60 FR 14253; August 9, 1996, 61 FR 41541). The NMFS has since determined that KMP steelhead are not

Figure E
Example of "ESA Programmatic Consultation"

presently at risk of extinction nor at risk of becoming endangered in the foreseeable future (March 19, 1998, 63 FR 13347); NMFS however, will reconsider this species as a candidate for listing within four years). SOCC chinook, which occur between Cape Blanco, Oregon and Point Bonita, California were proposed for listing as threatened under the ESA on March 19, 1998 (63 FR 11481). Critical Habitat for SOCC chinook was proposed by the NMFS concurrent with the proposed ESA listing.

The Level 1 team for the Southwestern Oregon Province (Level 1 team) prepared this BA as established by guidance provided in the February 26, 1997, interagency streamlining consultation agreement. Effects determinations were made by the Level 1 team following procedures described in NMFS (1996) and the NMFS Biological Opinion and Conference Opinion on continued implementation of Land and Resource Management Plans of the Rogue River, Siskiyou, Siuslaw, Umpqua, and Winema National Forests and the Resource Management Plans of the Coos Bay and Medford BLM Districts, (hereafter referred to as the LRMP Opinion) dated March 18, 1997 (NMFS 1997). The effects of the grouped (programmatic) and individual actions proposed in the BA were evaluated by the Level 1 team at project and watershed scales using criteria based upon biological requirements of listed, proposed and candidate salmonid species and the Aquatic Conservation Strategy objectives of the Northwest Forest Plan (USDA and USDI 1994).

The BA separated the proposed actions into three categories: (1) actions found to “may affect, but not likely to adversely affect” (NLAA) SONC coho; (2) actions found to “may affect, and likely to adversely affect” (LAA) this species; and (3) actions deferred for this consultation because the Level 1 team could not determine whether they were consistent with the LRMP Opinion. Upon review of the BA, NMFS has identified a fourth category of proposed actions: (4) actions submitted as NLAA, but which NMFS determined are LAA SONC coho.

The NLAA actions that NMFS concur with are listed below in Tables 1 & 2, this letter constitutes concurrence with the determinations for these actions. Table 1 lists programmatic actions, while Table 2 lists individual actions by administrative unit. The LAA actions (category 2 from above) will be covered in a separate biological opinion (“tiering letter”) from NMFS. The deferred actions (category 3 from above) need to be resubmitted for consultation once project planning progresses enough for the Level 1 team to make effects determinations. The fourth category of actions discussed above will be formally consulted upon in the same “tiering letter” that covers the other LAA actions from this BA. These latter actions are listed below in Table 3.

The BA also requested NMFS to conference on the effects of the submitted actions to KMP steelhead, the proposed SOCC chinook, and the proposed critical habitat for SONC coho. Although conferencing on effects to KMP steelhead is no longer relevant since the species is not proposed for listing under the ESA, the NMFS concurs with the Level 1 teams determination that

Figure E
Example of “ESA Programmatic Consultation”

NLAA actions include appropriate measures to avoid or minimize adverse impacts to KMP steelhead. Conferencing on effects to the proposed SONC coho critical habitat will be covered in the NMFS biological opinion addressing actions that are LAA SONC coho. Since the effects determinations at the watershed scale are the same for SOCC chinook and SONC coho, the NMFS concurs that the actions in Tables 1 & 2 are also NLAA SOCC chinook.

The actions in Table I & 2 include programmatic and individual actions. Whether listed programmatically or individually, these actions are individually evaluated by professional fishery biologists at the field office responsible for their planning and implementation. Due in large part to this involvement of the field biologists and the safeguards associated with current management practices, the Level 1 team determined that the programmatic actions in Table 1 are NLAA SONC coho if implemented outside of riparian reserves. Table 2 lists projects individually submitted by the administrative units to the Level 1 team for review. Although some of these projects may involve activities in riparian reserves or lead to more ground disturbance than those in Table 1, the Level 1 team review determined that the projects in Table 2 are also NLAA Pacific salmonids.

Although some ground disturbance will occur with implementation of the projects in Tables 1 & 2, the best judgement is that no adverse impacts to individual fish or salmonid habitat, such as mortality, reduced growth or other physiological changes, harassment, physical disturbance of redds, reproductive success, delayed or premature migration, or other adverse behavioral changes of any life stages will result from these actions. For example, due to project location and design, potential sediment deliveries to salmonid habitat resulting from these actions are either discountable (extremely unlikely to occur), or of such small volume and duration to be of insignificant consequence to salmonids or their habitat.

NMFS determined that the actions in Table 3, despite including appropriate measures to reduce adverse impacts, have a higher probability of delivering meaningful amounts of sediment to the stream network. Therefore, formal consultation on the actions in Table 3 and the other LAA actions proposed in the BA will be completed concurrently by NMFS. The results of this formal consultation will be documented in a forthcoming tiering letter from NMFS.

The two requirements for an NLAA determination for SONC coho and SOCC chinook are: (1) the action does not have the potential to hinder attainment of relevant properly functioning indicators, and (2) the action has a negligible (extremely low) probability of causing take of the species. NMFS concurs with the Level 1 team that the proposed actions listed in Tables 1 & 2 below meets those two requirements and are therefore not likely to adversely affect SONC coho or SOCC chinook. NMFS also concurs with the Level 1 team's determinations that these actions, if implemented as described in the BA, are consistent with the LRMP Opinion, include

Figure E
Example of "ESA Programmatic Consultation"

appropriate measures to avoid or minimize adverse impacts to SONC coho and SOCC chinook, and are consistent with the Aquatic Conservation Strategy objectives.

This concludes informal consultation on these actions in accordance with 50 CFR 402.14(b)(1). The Forest Service and BLM must reinitiate this ESA consultation: (1) if new information reveals effects of the action that may affect listed species in a way not previously considered; (2) if the action is modified in a manner that causes an effect to the listed species that was not previously considered; or (3) if a new species is listed or critical habitat designated that may be affected by identified action.

If you have any questions, please contact Craig Burns of my staff at (541) 957-3355.

Sincerely,

William Stelle, Jr.
Regional Administrator

Figure E
Example of “ESA Programmatic Consultation”

Table 1 - Ongoing and Proposed Programmatic Federal Actions Outside of Riparian Reserves That Are Not Likely to Adversely Affect SONC Coho or SOCC Chinook.

Coos Bay and Medford Bureau of Land Management Districts: Rogue River, Siskiyou and Winema National Forests. Each action consists of multiple individual projects.	
Road Maintenance Road Decommissioning Culvert Replacement Aerial; Fertilization Watershed Restoration Projects: - Road Storm proofing/drainage repair - road obliteration - upslope erosion repair - culvert upgrades Fish Habitat Restoration and Project Construction/Maintenance Emergency Repair of Federally-Owned Roads (ERFO) Projects, Road Repairs Dispersed Company and Campground Maintenance Dispersed and Developed Camping Motorized and Non-motorized Recreation Activities Trail Construction and Trail Maintenance Trailhead Site Construction and Maintenance Discretionary Right-of-Way Agreements and Road Use Agreements Prescribed Fire, Fire Suppression and Pre- Suppression Activities, Broadcast Burning Helicopter Pond Construction and Maintenance Meadow Restoration Projects Special Forest Products Special Use Permits Guide Permits Hazardous Materials Cleanup Administrative Site Maintenance	Precommercial Thinning Small Salvage Sales Roadside Salvage and Hazard Tree Removal Within Road Prisms Tail Trees and Guyline trees: Silvicultural Treatments: - tubing - thinning - mulching - weeding - scalping - fertilization - gopher baiting - release work, brushing - planting - pruning - shade cards - cone collection - scion wood collection Wildlife Projects: - tree topping, wildlife snag creation Erosion Control Projects: - seeding, mulching, fertilization Noxious Weed Control Fence Construction and Maintenance Gate Installation and Maintenance Barrier Installation and Maintenance Dump/Trash Clean Up Sign Installation/Maintenance Grazing Allotments with Allotment Management Plans Range Improvement Projects Mining Activities Road Construction, Road Reconstruction Rock Quarry Operations

Figure E
Example of “ESA Programmatic Consultation”

Table 2 Ongoing and Proposed Individual Actions (By Administrative Unit) That Are Not Likely to Adversely (NLAA) Affect SONC Coho or SOCC Chinook.

Rogue River National Forest
<u>Ashland Ranger District</u> Mt. Ashland Wastewater Treatment Plant <u>Applegate Ranger District</u> Eastside Thin Timber Sale <u>Ashland/Applegate Area (Ashland and Applegate Ranger Districts)</u> Flood Restoration Projects <u>Cascade Area (Prospect and Butte Falls Ranger District)</u> Bitter Timber Sale KV Project ERFO Road Restoration
Coos Bay District BLM
<u>Myrtlewood Resource Area</u> Noxious Weed Control
Medford District BLM
<u>Glendale Resource Area</u> Perkins Folly Timber Sale Marial Road Maintenance <u>Butte Falls Resource Area</u> Lost Creek I Timber Sale Lost Creek II Timber Sale State In-Lieu Land Transfer Above Lost Creek Dam

Table 3 - Individual Actions (by administrative unit) which NMFS does not concur are Not Likely to Adversely Affect SONC coho or SOCC chinook.

Rogue River National Forest
<u>Ashland Ranger District</u> Wagner Gap Timber Sale <u>Applegate Ranger District</u> Upper Thompson Timber Sale Beaver-Newt Timber Sale Natural Fuels Prescribed Burn

Figure E
Example of “ESA Programmatic Consultation”

References

- National Marine Fisheries Service(NMFS). 1996 Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale. NMFS Environmental and Technical Services Division, Portland, Oregon. August, 1996. 22 p. plus appendices.
- National Marine Fisheries Service(NMFS). 1997. Biological Opnion and Conference Opinion on Implementation of Land Management and Resource Management Plans (USFS) and Resource Management Plans (BLM) on the Oregon Coast. NMFS Northwest Region, Seattle, Washington. March 18, 1997. 75 p. plus three attachments.
- United States Department of Agriculture and United States Department of the Interior (USDA and USDI). 1994. Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of The Northern Spotted Owl. Washington D.C. April; 13, 1994. 74 p. plus attachments.

Figure E
Example of “ESA Programmatic Consultation”

Public Notice

U.S. Army Corps of Engineers

Walla Walla District
201 N. Third Avenue

Walla Walla, WA 99362-1876

INFORMATIONAL PUBLIC NO- TICE

Permit Requirements for Flood
Protection and Repair Work

February 23, 1996

The Regulatory Branch of the Walla Walla District, U.S. Army Corps of Engineers, has been receiving numerous requests from the public for information regarding permit requirements for emergency flood protection and damage repair activities in northern Idaho. The public is calling to find out what they can and cannot do and what permits are required to protect their property and repair damage caused by the recent flooding. The Walla Walla District administers the Corps Regulatory Program in the State of Idaho under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Under these laws, permits are generally required from the Corps for most construction activities in waterways and wetlands. This includes lakes and ponds, as well as intermittent and perennial rivers, streams, and creeks.

We understand and sympathize with those affected by the recent flooding. We recognize that many have been severely affected and suffered substantial losses and hardship. We also recognize that there is usually little time to obtain permits for emergency work to protect property from flooding. We want to provide the public with basic information so that they can protect their property and get started cleaning up the mess and repairing any damage with little delay and paperwork. The last thing we want is for people to be delayed while trying to find out what they can do to protect their homes and other property, repair flood damage, or worry about what permits are required.

The following information is intended to provide some basic, general information regarding permit requirements for flood protection and repair work in Idaho. We have a staff of eight located in field offices in Coeur d'Alene, Boise, and Idaho Falls as well as our District office in Walla Walla. These people are available to answer questions for specific situations not - mentioned below. In some cases, they are available to meet on site to inspect problems, offer recommendations, and discuss permit requirements.

The first thing to know is that any work above the ordinary high water mark or in uplands (non-wetland areas) does not require a Corps permit. This includes placing sandbags or

<p>Figure F Example of "COE 404 Emergency Exemption"</p>

constructing dikes or levees outside the normal river channel wetlands. A Corps permits required for most work below the ordinary high water mark or in wetlands. In general, high flow channels and wetlands should not be blocked off. These areas are natural flood storage areas. They temporarily hold flood waters and reduce the severity of flood events.

Secondly, certain types of work are exempt from permit requirements. Among these are excavation of gravel and debris for maintenance of bridges, culverted road crossings or other structures. This excavation must be done only in the immediate vicinity of the structure. All excavated material must be disposed of in upland locations and not in wetlands or other waterways.

In addition, the repair and maintenance of existing dikes, dams, levees, riprapped banks, breakwaters, causeways, bridge abutments and approaches, roadways, and other transportation structures damaged by recent flooding is exempt provided there is no change from the original design.

Also exempt from permit requirements is the emergency removal of sandbars, gravel bars, or other similar blockages which would result in damage to or loss of crops. This includes blockages which would impair or prevent plowing, seeding, cultivating or harvesting existing established cropland. However, it does not include modification, such as deepening or widening, of the waterway as it existed prior to the flood event. All material removed must be disposed of in upland locations and not in wetlands or other waterways.

Permits will not be required for the emergency removal of fallen trees and other minor debris that impounds or diverts natural flows and causes bank erosion or flooding. Removal of large debris piles however, may require a permit and should be coordinated with our Regulatory staff. All material removed must be disposed of in upland locations and not in wetlands or other waterways. Wholesale channel clearing, cleaning and relocation is not exempt, requires a permit, and is generally discouraged.

Besides exempt activities, there are several nationwide permits which may authorize certain flood protection and repair projects, such as Nationwide Permit 13. This nationwide permit authorizes bank protection projects such as the placement of rock riprap along a riverbank or shoreline. To qualify for this nationwide permit, the rock must be placed at the point of erosion. It may not be placed to reclaim recently eroded land. If the project is less than 500 feet in length and less than 1 cubic yard of rock per running foot of shoreline is to be placed below the ordinary high water mark, the project is authorized by this nationwide permit and there is no need to notify us. Large projects which exceed these limits may be authorized by this nationwide permit but require that we be notified and verify authorization under the nationwide permit.

Figure F
Example of “COE 404 Emergency Exemption”

Other nationwide permits may authorize specific flood protection and repair projects. However, unless specifically mentioned above, the Corps should be contacted for permit requirements relating to the specific situation. In many cases, questions may be answered over the telephone with little or no paperwork.

For work in Boundary, Bonner, Kootenai, Shoshone, and Benewah counties contact Mike Doherty or Gregg Rayner at our Coeur d’Alene Regulatory Office at 208 765-7237 or 208 765-7256, respectively.

For work in Latah, Nez Perce, Lewis, Clearwater, and Idaho counties contact Barbara Benge or William McDonald at our Walla Walla District Office at 509 527-7153 or 509 527-7155, respectively.

For work in Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, Owyhee, Camas, Blaine counties and the western part of Custer County, contact Greg Martinez at our Boise regulatory Office at 208 343-0671 or Red Smith at our Walla Walla District Office at 509 527-7156.

For work in Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bingham, Bonneville, Gooding, Lincoln, Jerome, Twin Falls, Minidoka, Cassia, Power, Oneida, Bannock, Caribou, Franklin, Bear Lake counties and the eastern part of Custer County, contact Ray Kagel or Rob Brochu at our Idaho Falls Regulatory Office at 208 522-1645.

In addition to Corps permit requirements, the Idaho Department of Water Resources (IDWR) has permitting authority under the state Stream Channel Protection Act for any work done below the line of ordinary high water of all perennial streams and rivers. This includes all work authorized by the Corps under nationwide permits in these channels. Provisions of this Act have been waived by the IDWR Director for situations requiring immediate action. However, work not required to protect life and property as in an emergency situation must be reviewed under a joint application for permit. The Corps and IDWR will be cooperating to expedite permit applications for all flood mitigation work.

For information on IDWR permits, contact their Northern Region Office in Coeur d’Alene at 208 769-1450 or Western Region Office in Boise at 208 334-2190.

A. Bradley Daly
Chief, Regulatory Branch

Figure F
Example of “COE 404 Emergency Exemption”

DEPARTMENT OF THE ARMY
PORTLAND DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2946
PORTLAND, OREGON 97208-2946

REPLY TO
ATTENTION OF:

Operations, Construction,
and Readiness Division

Brian G. Allen
Staff Environmental Engineer
U.S. Department of Transportation
Federal Highway Administration
610 East Fifth Street
Vancouver, WA 98661-3893

Dear Mr. Allen:

This is in response to your March 27, 1996, letter regarding emergency relief for repair or reconstruction of Federal highways and roads that have been damaged by recent flooding. You requested confirmation that the emergency repair and reconstruction work would be exempt from the requirements of regulation by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. Under Section 404, the Corps regulates the discharge of dredged or fill material in waters of the U.S., which includes wetlands.

Section 404 specifically exempts certain activities from the requirements regulation. One of these exempted activities is the maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as bridge abutments or approaches and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design. Emergency reconstruction must occur within a reasonable period of time after the damage occurs in order to qualify for this exemption.

The Corps also regulates most work and structures that affect navigable waters of the U.S. The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or of any currently serviceable structure or fill authorized by the "grandfather" provision (33 CFR 330.3), may qualify to be authorized under nationwide permit number 3. To qualify, the structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. For more information regarding this nationwide permit, call Byron Blankenship at (503) 326-6995.

I hope this provides the confirmation you have requested.

Sincerely,

W. B. Paynter
Chief, Regulatory Branch

Figure F Example of "COE 404 Emergency Exemption"

DEPARTMENT OF THE ARMY
PORTLAND DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2946
PORTLAND, OREGON 97208-2946

REPLY TO
ATTENTION OF:
Operations, Construction,
and Readiness Division

Subject: Permit Application ID No. 98-166

Brian G. Allen
Staff Environmental Engineer
U.S. Department of Transportation
Federal Highway Administration
610 East Fifth Street
Vancouver, WA 98661-3893

Dear Mr. Allen:

I have reviewed your agency's letter dated April 24, 1998 (attached) in which you state that the required to obliterate nearly 105 miles of forest development roads in the Fish Creek Watershed should be exempt from regulation under the Clean Water Act Section 404.

I have reviewed 33 CFR 323.4 "Discharges not requiring permits," and discussed the issue with Doris McKillip, Regulatory Project Manager.

Construction or maintenance of forest roads is addressed under 33 CFR 323.4 (a)(6)(i) through (xv). Three types of roads are addressed including permanent roads (for farming or forestry activities, temporary access roads (for mining, forestry, or farm purposes) and skid trails (for logging). Best management practices are addressed for the construction or maintenance of forest roads which includes assuring that flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired. This citation also states that all temporary fills shall be removed in their entirety and the area restored to its original elevation.

Removal of forest roads is not specifically addressed in this section of the regulation; however, it was likely not anticipated that these road systems would be removed rather than expanded. The 105 miles of forest development roads may or may not be considered temporary fills. However, removal of culverts and other forest road fills and the restoration of the area to pre-road status will obviously assure that flow and circulation will be re-established at these sites. If best management practices are followed, we will concur that the 105 miles of forest development roads in the Fish Creek Area are exempt under 33 CFR 323.4. A copy of the referenced regulations are attached for your information.

If you have any questions, please contact me at the address listed above or telephone at 503 808-4370.

Sincerely,

W. Burton Paynter

Figure G Example of "COE 404 Silviculture Exemption"
--

April 19, 1996



DIVISION
OF
STATE
LAND

Brian G. Allen
Staff Environmental Engineer
U. S. Department of Transportation
Federal Highway Administration
Western Federal Lands Highway Division
610 East Fifth Street
Vancouver, WA 98661-3893

STATE LAND BOARD

JOHN A. KITZHABER
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JIM HILL
State Treasurer
775 Summer Street NE
Salem, OR 97310

(503) 378-3805
FAX (503) 378-4844
TTY (503) 378-4615

RE: Permit Exemption Emergency Relief for Federally Owned Roads

Dear Mr. Allen:

You requested written confirmation for an exemption to the 404 permit authority and the Oregon removal-fill permit for federal road reconstruction projects due to the recent flood. The Division of State Lands (DSL) only administers Oregon's Removal-Fill Law and cannot provide confirmation for an exemption to the 404 permit authority. That confirmation must come from the U.S. Army Corps of Engineers. I suggest that you contact:

Burt Paynter
U.S. Army Corps of Engineer
P.O. Box 2946
Portland, OR 97208-2946
TELE: (503) 326-7146

The Oregon Removal-Fill Law does provide an exemption for the removal or filling for maintenance, including emergency construction of recently damaged parts of currently serviceable roads. This is generally the case due to the February 1996 flood. This exemption and associated restructuring of damaged roads should not include any modifications or changes that affect the original pre-flood condition, scope, or road design. Such modification will require an Oregon removal fill permit. It is always difficult to give an exemption without having full knowledge of the breadth and scope of the repair. I would strongly recommend that you appraise DSL of any road reconstruction projects prior to commencing repair. I have included a copy of Oregon's statute and administrative rules relative to the removal-fill permit for your review.

Figure H
Example of "State Permit Emergency Exemption"

Brian G. Allen
April 19, 1996
Page 2

If you have any further questions concerning this matter, please contact me at (503) 378-3805, extension 279, or Earle Johnson at extension 244.

Sincerely,

Stephen J. Purchase
Assistant Director
Field Operations

bga.wpd

Enclosure
cc: Earle Johnson

Figure H
Example of "State Permit Emergency Exemption"

March 18, 1997

Brian Allen
Western Federal Lands Highway Division
610 East Fifth Street
Vancouver WA 98661-3893



DIVISION
OF
STATE
LAND

RE: State Project No. 13725
Joint Permit Application for repair of flood damaged
roads; Quartzville area in Salem District of the BLM
Linn County

Dear Mr. Allen:

Consistent with past practice, if roads are primarily used for the transport of cut timber and are on forest lands, we consider removal—fill activities associated with such roads as covered by the Forest Practices Act exemption to the Removal-Fill Law. Please let me know if you think this is the case for the subject road repairs. In any case, repair and maintenance activities are exempt from our permit requirements, if a structure is repaired to its pre-flood configuration, and not expanded or substantially modified; repair and maintenance activities -- to qualify for the exemption--must also take place during the preferred in-water work periods as established by the Oregon Department of Fish and Wildlife (enclosed).

Please call me to discuss this matter at 503 378-3805, extension 232.

Sincerely,

Ken Franklin
Natural Resource Coordinator
Field Operations-Western Region

Enclosure

rf 28:226

Rich Gebhart, Corps of Engineers
John Haxton, Oregon Dept. of Fish and Wildlife

Figure I
Example of "State Permit Silviculture Exemption"

United States
Department of
Agriculture

Forest
Service

Rogue River
National
Forest

333 W. 8th Street
P. O. Box
Medford, OR 97501-0209

File Code: 7700 Transportation Systems

Date: April 6, 1999

Route To: Federal Highway Administration
Western Federal Lands Highway Division
610 East Fifth Street
Vancouver, WA. 98661-3893

Subject: Designated Materials Sources and Waste Areas
Applegate Ranger District
ERFO Restoration Projects
OR-97-2-FS Flood Event

To Brian Allen, Environmental Engineer

A review of the materials source and waste area sites proposed for use by the FHWA repair contract has been completed by Applegate District staff and specialists. All sites were found to be acceptable for use as intended with the following recommendations or restrictions:

- No development beyond the existing cleared boundaries will be authorized
- Prior to entering a source area, the Forest Geotechnical Engineer will be notified
- Contractor will determine which sources or areas will be necessary for operations and submit a listing to the Contract COR or Forest Geotechnical Engineer.
- Development plans for those areas necessary for the contractors needs will be submitted prior to beginning work..
- A work schedule indicating the priority by project site will be developed to allow the Forest Service to coordinate the anticipated road closures necessary for project work and verify any additional T&E concerns.

A map was previously submitted to FHWA indicating the locations of the each site and designating which were to be utilized as borrow sources or waste disposal sites.

This letter is your authorization to enter and use those materials sources and waste areas reviewed and approved as shown on the map previously referred to.

MARY SMELCER
Applegate District Ranger

cc: R.Brady
R.Styrwold

<p style="text-align: center;">Figure J Example of “Materials Source and Waste Disposal Authorization”</p>

ERFO Project Files Sign-Off Sheet and DSR Tracking Guide									
PROJECT INFORMATION					DSR NUMBER	DSR CONST. COST	DSR P.E.	DSR C.E.	
Project Number:	Customer:								
Project Name:	Account No.								
ITEMS REQUIRED IN CENTRAL FILES									
ITEM	INITIALS	DATE	ITEM	INITIALS	DATE				
Project Manager			Geotech						
Designer			Geotech Memo						
Joint Field Letter									
DSR' s									
Plans			Environment						
Specifications			NEPA Document						
Estimate			Env. Checklist						
Bid Tabs			Resource Documents						
PE Narrative			Permits						
Reimbursable Agree.			Correspondence						
Archive List									
Survey Archive List									
Tracking Document									
PS&E Documents									
Right-of-Way Info.									
Correspondence									
Supporting Data									
CD with Design Files									
Hydraulics Report									
Hold File Checklist									
Customer Surveys									
- Internal									
- External									
					DSR TOTALS				
					REIMBURSABLE AGREEMENTS				
					TOTAL				
						WFLHD Eng. Est.	WFLHD P.E.	WFLHD C.E.	
					DIFFERENCE				

Figure K
Example of "DSR Tracking Guide"

DEPARTMENT OF TRANSPORTATION PROCUREMENT REQUEST PROCESS RAPIDLY					PROCUREMENT REQUEST NO.	
					DATE RECEIVED	
1. NAME, PHONE NUMBER, AND ROUTING SYMBOL OF PERSON TO CONTACT Edward S. Hammontree					2. TYPE OF REQUEST (Check one)	
3. ORIGINATING OFFICE DATA ERFO Design Section					A. <input checked="" type="checkbox"/> NEW REQUEST	
4. ADDITIONAL INFORMATION (Suggested supply sources, security data, etc.) WA FS ERFO 96-22(10), FDR 99					B. <input type="checkbox"/> CHANGE TO PENDING PR NO. _____	
					C. <input type="checkbox"/> MODIFICATION TO CONTRACT OR ORDER NO. _____	
5. APPROVALS						
APPROVING OFFICIALS (A)		ROUTING SYMBOL (B)	DATE (C)	INTERNAL ROUTING		
(1) AUTHORIZED REPRESENTATIVE				INITIALS (D)	ROUTING SYMBOL (E)	
Thomas J. Hildreth <i>9/6/96</i>						
(2) ACCOUNTING CERTIFICATION OFFICER						
<i>Tom C...</i>		HFA -17.123	<i>9/6/96</i>			
(3)						
(4)						
					6. CONSIGNEE AND DESTINATION	
					7. DATE(S) REQUIRED	
					8. GOVERNMENT FURNISHED PROPERTY	
					<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If "YES," see par. 8 of Instructions on reverse.)	
9. DESCRIPTION OF ITEMS OR SERVICES						
ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST		
				UNIT (E)	AMOUNT (F)	
1	Mobilization	1	lpsm	10,000.00	10,000.00	
2	Geogrid Wall	1,550	sq ft	20.00	31,000.00	
3	Fiber reinforced shotcrete	20	cu yd	350.00	7,000.00	
4	Geotextile, type VIII	400	sq yd	4.00	1,600.00	
5	Roller	20	hours	75.00	1,500.00	
6	Hydraulic Excavator	20	hours	100.00	2,000.00	
7	Bulldozer	20	hours	75.00	1,500.00	
8	Crushed Aggregate Base (Government Furnished)	300	cu yd	15.00	4,500.00	
9	Asphalt Concrete	275	ton	90.00	24,750.00	
10	Guardrail, type G4, W beam, wood post	400	ln ft	20.00	8,000.00	
				TOTAL ESTIMATED COST		
				\$	91,850.00	
10. ACCOUNTING DATA						
09M-17-53-54-6222-110						

FORM DOT F 4200.1 (3-71) (IF Beta C, 4/12/95)

Figure L
Example of "Purchase Order Contract"

Procurement Request Attachment for FDR 99

Item 1. Mobilization.

Lump Sum

This item covers all necessary work to mobilize and demobilize to and from the site to perform the work. This item also includes any survey or testing required to perform the work.

Item 2. Geogrid Wall.

1550 Square Feet

Description:

This item includes all work necessary to construct the geogrid wall detailed on the plans.

Materials:

Provide invoices for all purchased materials.

Geogrid shall be Tensar type UXI500SB SRHDPE.

Select borrow backfill is government provided from Way Quarry as shown on the plans.

Reinforcing steel shall be #4 rebar.

Welded wire forms shall be W3.5 x W3.5, 4X4.

Support strut wires shall be No.4.

Construction Requirements:

Wall Excavation.

Rock will be encountered, during excavation of; Geogrid wall construction. Perform wall excavation in rock according to Section 205. Structural Excavation quantity is 840 cubic yards (for information only)

Geogrid Placement

Place geogrid with the strongest direction normal to the wall face.

Select Borrow Placement

Start select borrow placement at the back third of the reinforcement and work towards the wall face. A minimum backfill thickness of 8.0 inches is to be maintained between equipment and reinforcement and therefore tracked or wheeled equipment is not allowed to drive directly on the reinforcement. When placing backfill avoid damaging the reinforcement. The contractor is to replace wall materials that are damaged by the backfill placement at the contractors expense. Correct any misalignment or distortion of the wall face caused by placement of the backfill that is outside the limits of this specification.

Figure L
Example of "Purchase Order Contract"

Compact select borrow to the requirements of section 204 while not exceeding a maximum loose lift thickness of 12.0 inches. Compaction within 3.0 feet of the wall face is to be achieved by at least three passes of a light weight mechanical tamper, roller, or vibratory system. Select borrow backfill quantity is 860 cubic yards (for information only).

Wall Alignment

Align wall face to within + /- 3.0 inches of a line projected from the bottom front of the wall face on a 1H:6V batter.

Measurement:

Measurement will be along the neat line of wall face constructed.

Payment:

This pay item includes all work and materials necessary for wall excavation, select borrow backfill, geogrid material, reinforcing steel, welded wire forms and support strut wires.

Item 3. Polyfiber reinforced Shotcrete.

20 cubic yards

Provide invoices for all purchased materials. Provide mix design for shotcrete meeting the following requirements. Provide the Government three standard cylinders filled with the same shotcrete applied at the site.

Proportion shotcrete to produce a mix capable of attaining a 1500 psi compressive strength in 3 days and 3000 psi in 28 days. Air content in the preplaced Shotcrete mix shall be 6%-8%.

Add Davis color code # 5084, "Buff", to the shotcrete prior to pneumatic application

Apply a broom finish to the undisturbed gun finish as applied from the nozzle.

Follow manufactures recommendations when adding quantity of polyfiber reinforcement to the shotcrete mix.

Measurement will be along the neat line of wall face constructed.

This pay item includes all work and materials necessary for wire mesh, weep hole construction and shotcrete placement and finishing.

Item 4. Geotextile, type VIII.

400 square yards

This item included placement of geotextile, type VIII at locations shown on the plans.

<p style="text-align: center;">Figure L Example of "Purchase Order Contract"</p>

Item 5. Roller**20 hours**

This item covers compaction necessary in shoulder reconstruction areas from Station 3+00 to 4+00 and from Station 5+25 to 7+05.

Item 6. Hydraulic excavator**20 hours**

This item covers excavation necessary in shoulder reconstruction areas from Station 3+00 to 4+00 and from Station 5+25 to 7+05.

Item 7. Bulldozer**20 hours**

This item covers excavation and replacement of material necessary in shoulder reconstruction areas from Station 3+00 to 4+00 and from Station 5+25 to 7+05.

Item 8. Crushed Aggregate Base (Government furnished)**300 cubic yards**

This item requires all work necessary to load, haul, place and compact government furnished crushed aggregate base from a stockpile at a Forest Service source located at M.P. 32.7 on Forest Road 25.

Item 9. Asphalt concrete.**275 tons**

This item requires furnishing and placing asphalt concrete meeting general WSDOT specifications at the locations shown on the plans. This item also includes applying centerline and shoulder striping to the asphalt concrete meeting the requirements of Subsection 634.05, Waterborne Traffic Paint, Type B.

Item 10. Guardrail, type G4, W beam, wood post.**400 linear foot**

This item requires furnishing and installing guardrail as shown in plans. This item also includes installing guardrail terminal sections, type BCT, at both ends of the guardrail run. Terminal sections will be paid by the linear foot under this item.

Figure L
Example of "Purchase Order Contract"

FDR 99 Windy Ridge ERFO Project

Bid packet clarifications and Revisions

Revisions:

Geogrid reinforcement tail has been increased from 1.0 foot to 3.0 feet.

Clarifications:

Structural excavation quantity is approximately 840 Cy Yd (information only).

Structural excavation does not have to be removed from the site but instead can be pushed out and down into the failure area (See sheet - 2).

Select borrow material quantity is approximately 860 Cy Yd (information only)

The select borrow material source is approximately 3.0 miles round trip from the project site.

The select borrow material is crushed and stock piled for use.

Aggregate base material source (MP 32.7) is approximately 45 miles round trip from the project site. The aggregate is crushed and stock piled for use.

Shotcrete facing application is to be done by Johnson Western Gunite.

Figure L

Example of "Purchase Order Contract"



U.S. Department
of Transportation

**Federal Highway
Administration**

ATTN.: Ted Aadland, President
F.E. Ward, Inc.
2710 NE 78th Street
Vancouver Washington 98665

WESTERN FEDERAL LANDS HIGHWAY DIVISION
610 EAST FIFTH STREET
VANCOUVER, WA 98661-3893
(360) 696-7700 FAX: (360) 696-7846

APR 29, 1996
HPC- 17.7
LTR_CON.PIN

Award of Letter Contract: 5-8-96

Dear Mr. Aadland:

Letter Contract DTFH70-96-C-00009
Solicitation No. DTFH70-96-R-00018
WA FS ERFO 96-22(2)
Gifford Pinchot National Forest. Pine Creek Bridge Repair

Emergency reconstruction of the subject bridge is required to accommodate traffic as soon as possible. The construction has been offered and accepted by Mr. Ted Aadland on behalf of F. E. Ward. To allow for an immediate start of work, we have been authorized by Mr. Thomas O. Edick, Head of Contracting Activity for Federal Lands Highway Office, to issue a letter contract to your firm for the work.

This letter, upon execution by your firm and this agency, will serve as a letter contract authorizing you to proceed with work.

The proposed work consists of installation of under-pinning and backfill of embankment at Abutment #2 of Pine Creek Bridge as shown on the attached drawings. The Pine Creek bridge shall be open to traffic not later than July 15, 1996.

The following FAR Contract Clauses are included as part of this letter contract:

52.216-23 EXECUTION AND COMMENCEMENT OF WORK (APRIL 1984)

The Contractor shall indicate acceptance of this letter contract by signing two copies of the contract and returning them to the Contracting Officer not later than May 2, 1996. Upon acceptance by both parties, the Contractor shall proceed with performance of the work, including purchase of necessary materials.

52.216-24 LIMITATION OF GOVERNMENT LIABILITY (APRIL 1984)

- (a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding \$200,000.00 dollars.
- (b) The maximum amount for which the Government shall be liable if this contract is terminated is \$200,000.00 dollars.

Figure M
Example of "Letter Contract"

52.2 16-25 CONTRACT DEFINITIZATION (APRIL 1984)

(a) A firm-fixed price definite contract is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the letter contract, (2) all clauses required by law on the date of execution of the definitive contract, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a fixed-price proposal and cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract is:

- (1) Proposal Due-May 31, 1996
- (2) Negotiations begin - June 7, 1996
- (3) Contract Award - June 21, 1996

(c) If agreement on a definitive contract to supersede this letter contract is not reached by the target date in paragraph (b) above, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with Subpart 15.8 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by--

(i) All clauses required by the FAR on the date of execution of this letter contract for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by Law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with subparagraph (c)(1) above, all clauses, terms, and conditions included in this letter contract shall continue in effect, except those that by their nature apply only to a letter contract.

(end of clauses)

Until the contract is definitized, all work shall be performed in accordance with the Federal Acquisition Regulations (FAR), the *Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-92*, and as directed by the Contracting Officer. A request for proposal will be forwarded to you in approximately two weeks. Since you have reviewed the site with our Engineers, you have sufficient information to begin mobilizing and executing work.

<p>Figure M Example of "Letter Contract"</p>

Copies of the SF 25 (Performance Bond) and the SF 25-A (Payment Bond) are enclosed. Executed copies of these forms (original and one copy) are to be returned to this office (ATTN: Contracts Section) prior to the beginning of construction activities. Please include the name and address of your bonding company's local agent on the bonds and furnish a current copy of the agent's Power of Attorney from the bonding company. We also request that your Certificate of Insurance be submitted to the Contracts Section within 10 days of award of this letter contract.

The Contract Administration Office is located in the office of the Project Engineer, Paul Rettinger, P.O. Box 130, Cougar, Washington 98616. His phone number is (360) 238-5156.

Please execute this letter contract by securing the required signatures on each original and returning them to this office by May 2, 1996. I will then make award and return one of the executed copies to your office for your files.

Sincerely yours,

James N. Hall
Contracting Officer

(6) Enclosures
Riprap Detail
Typical Section Sketch
Vicinity Map
Electronic Funds Information
SF 25, Performance Bond
SF 25A, Payment Bond

cc: T. Hildreth
E. Hammontree
P. Rettinger

ACCEPTED

Ted Aadland
President
F. E. Ward, Inc.

Date

ACCEPTED

Raymond L. Schadt
Contracting Officer
Federal Highway Administration

Date

Figure M
Example of "Letter Contract"

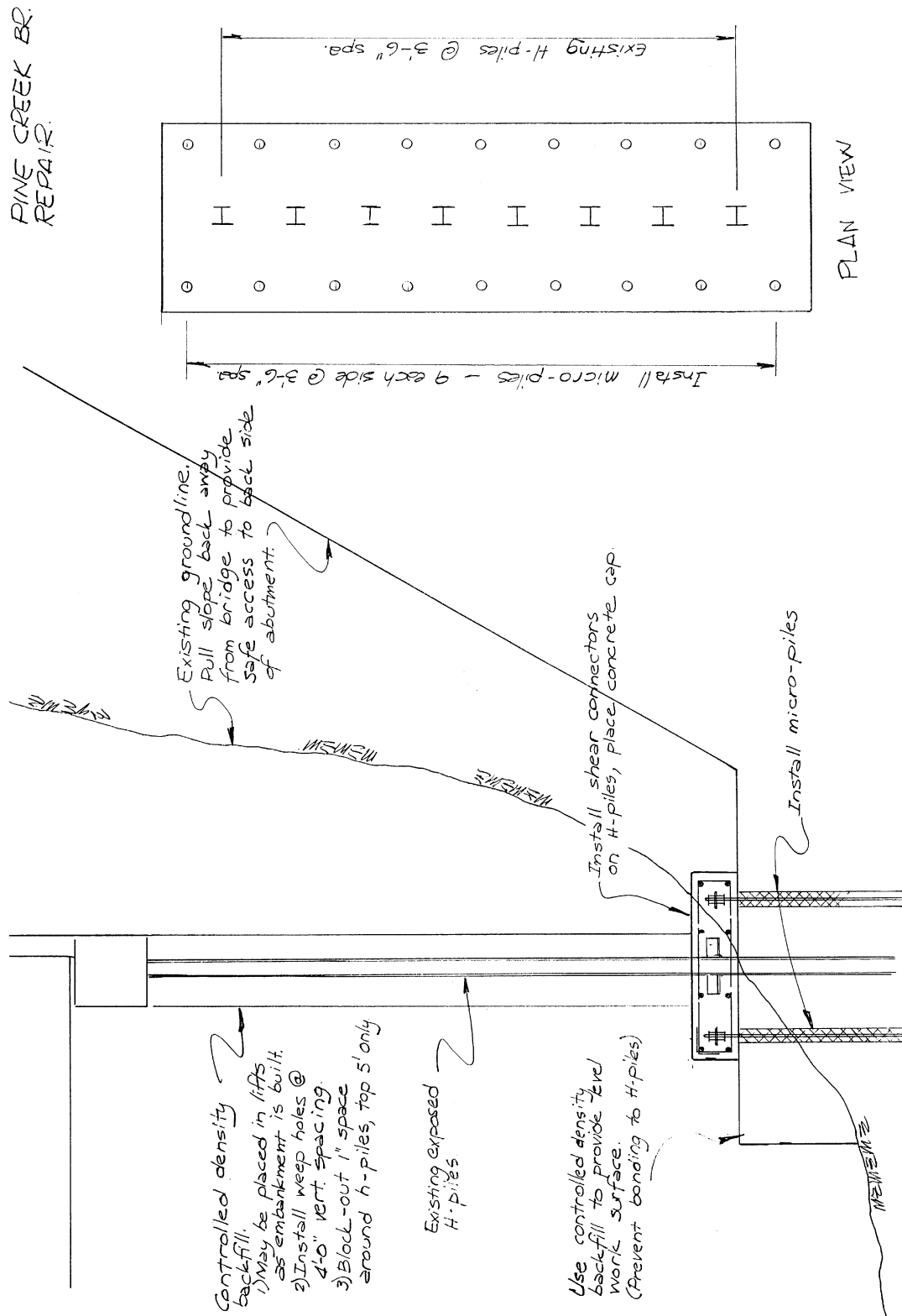
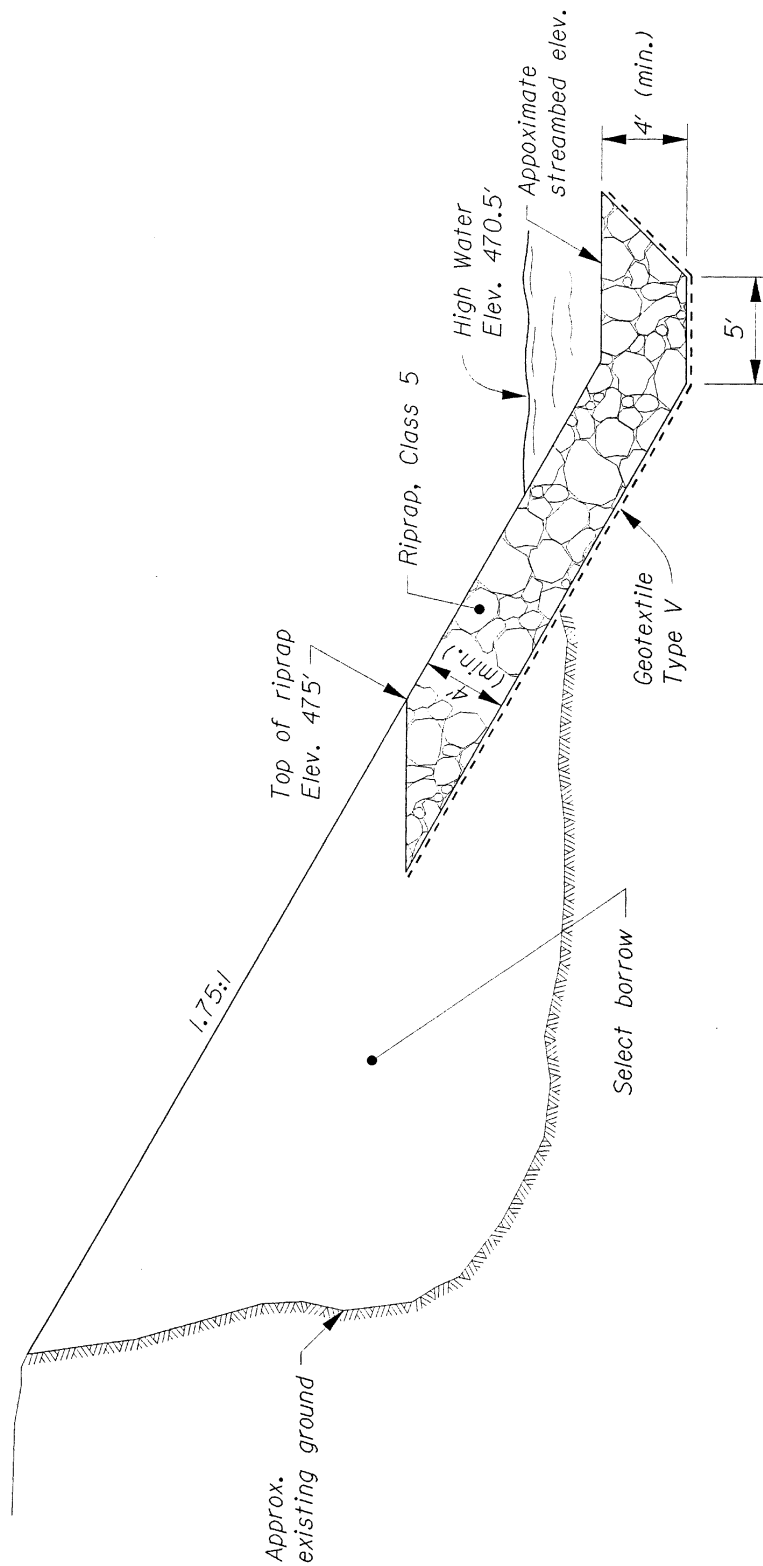


Figure M
Example of "Letter Contract"



PINE CREEK APPROACH

Figure M
Example of "Letter Contract"

FDR 99

Mount St. Helens National Volcanic Monument

This project is located in Skainania County for Labor Hour rate purposes.

This project will be between \$50,000 to \$100,000 and the CBD notice will need to be waived.

The justification for waiving the CBD is as follows. The project is located in the Mount St. Helens National Volcanic Monument on Forest Highway 99, a main route that accesses tourist attractions to Mount St. Helens. Access to the Windy Ridge viewpoint. Spirit Lake and many other tourist destinations are accessed by this highway. This roadway is presently closed Monday through Thursday to public use. To reconstruct this site the roadway will be required to be closed for two to three weeks. Both Mount. St. Helens National Volcanic Monument and the Gifford Pinchot National Forest have asked FHWA to expedite this repair so that it can be completed before bad weather arrives and eliminate future delays to traffic during the 1997 tourist season. This section of road is heavily used from June through October by tourists, hunters and outdoor enthusiasts.

All work required under the Purchase Order is shown on the plan sheets or on the Procurement Request.

Figure N
Example of “CBD Waiver”